



USAID
FROM THE AMERICAN PEOPLE

FAIR JUSTICE PROJECT

EXCERPT

**FROM A REPORT ON THE LEGAL PROFESSION PRACTICE
ANALYSIS REGARDING KNOWLEDGE, ABILITIES, SKILLS AND
PROFESSIONAL VALUES LAW SCHOOL GRADUATE SHOULD
POSSESS TO MEET MODERN JOB MARKET DEMANDS**

Contract No. AID-121-C-11-00002

Information about the report:

Analytical report based on results of a project “Engaging the Public in Developing a Legal Profession Qualifications Framework by Conducting the Analysis of the Knowledge, Skills, and Abilities Law School Graduates Should Possess to Meet Modern Job Market Demands” / Koziakov S.Yu., Lylyk S.V., Pyrohova D.I., Krasnovskyi O.V. – K. All-Ukrainian CSO “Ukrainian Marketing Association, 2015. - 131 p.

The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development, or the United States Government.

CONTENTS

I. Problem, which the survey is aimed to solve	4
II. Efforts of USAID FAIR Justice Project to solve the problem	4
III. Format of a labor market study	5
IV. Key conclusions based on survey results	6
V. Key recommendations based on survey results	9
VI. Expectations based on survey results	10

I. PROBLEM, WHICH THE SURVEY IS AIMED TO SOLVE

Public complaints on the operations of courts and law enforcement bodies evidence a need for legal education reform in Ukraine. Conducted during previous period subject surveys have proved that content and methodology of legal training in Ukrainian law schools stick to Soviet approaches which negatively affects the understanding of law by law students and image of legal profession. The transfer to teaching students and their learning issues of philosophy and principles of law, mastering the value of a rule of law state and understanding ensuring new quality and role of a lawyer and legal profession in free democratic society are taking place unjustifiably slow¹.

There are still no legal profession qualifications framework, professional standards of legal profession and national standard of legal education in Ukraine. Content of legal education is currently being determined by a draft legal education standard developed in 2004² and set forth in a syllabus - a regular document of a high education institution.

Such state of affairs is unsatisfactory and requires decisive steps to reform legal education.

II. EFFORTS OF USAID FAIR JUSTICE PROJECT TO SOLVE THE PROBLEM

In order to modernize legal education, increase its quality and make it more employer-oriented, USAID FAIR Justice Project (hereinafter - FAIR) initiated and funded the conduction of a survey to determine expectations of labor market. The collected data may further serve in developing a National Qualifications Framework (NQF) of legal profession and legal profession standards, which according to the Law of Ukraine "On Higher Education"³, must be taken into account while developing a national legal education standard.

A subject survey on labor market expectations was performed by the All-Ukrainian Civil Society Organization "Ukrainian Marketing Association" in order to:

- get accurate information about the desired by employers scope of knowledge, list of skills, abilities and professional values which must be fostered in a law school graduate;
- determine the interest of professional associations of Ukrainian lawyers in being involved in the process of developing professional standard of legal profession and participating in developing national standard of legal education;
- discuss survey results with key institutions, in particular, the Ministry of Education and Science of Ukraine, Ministry of Justice of Ukraine, and experts within the framework of joint national efforts to implement the provisions of the Law of Ukraine "On Higher Education" and develop a mechanism to bridge a gap between curricula of law schools and actual expectations of employers regarding law school graduates in Ukraine.

Currently, the Law of Ukraine "On Higher Education" gives employers and professional community an opportunity to interact with the field of education more efficiently, namely, it:

¹ Delaine Swenson, Finley Young. Independent External On-Site Assessment of Legal Education Quality at the Ivan Franko Lviv National University Law School / Report with recommendations on improving internal policy on legal education quality assurance. – Lviv, - 2014 – P.11 / manuscript copyright

² See Report on "State of Legal Education and Science in Ukraine" http://upf.com.ua/wp-content/uploads/2013/11/legal-education-report_final_ENG-tr.pdf, - P. 29-34.

³ Law of Ukraine "On Higher Education" dated 01.07.2014 [Electronic resource]: Access at: // <http://zakon.rada.gov.ua>laws/show/1556-18> - Title from a screen

- Requires including to the membership of the Scientific and Methodological Council representatives of employers, their associations and professional associations (p. 6, art.13 of this Law);
- Establishes an opportunity of including representatives of employers, their organizations, associations and professional associations to the membership of expert councils of the National Agency for Higher Education Quality Assurance (p. 1, art.21 of this Law);
- Sets forth that higher education standards under each specialty shall be developed by the Ministry of Education and Science of Ukraine taking into account proposals of sectoral associations of employers' organizations (p. 6, art.10 of this Law);
- Provides for a possibility to include to the membership of an examination board which performs attestation of persons who study under a Bachelor's or a Master's program, representatives of employers and their associations (p. 2, art.6 of this Law).

The obtained survey results should facilitate:

- The Ministry of Education and Science of Ukraine in exercising its powers regarding systematic tracking and analysis of labor market demands and facilitating employment of graduates of higher education institutions, and determining opinion of employers on forming the indicators of state order to train lawyers for labor market (sub-points 3 and 11, point 1, art. 13 of this Law);
- The Ministry of Justice of Ukraine in establishing effective cooperation with education and professional community to organize jointly with the Ministry of Education and Science of Ukraine work on training, re-training and ongoing training of specialists under a specialty "Legal Studies" in educational institutions, providing proposals on training lawyers, submitting proposals to relevant education management bodies regarding improving work related to studying law in higher education institutions (art. 25 of the Regulation on the Ministry of Justice of Ukraine)⁴.

This survey should also help the Government to ensure broad participation of representatives of employers in training and making decisions related to regulating the interaction of components of higher education and its operations (sub-point 7, point 2, art. 12 of this Law).

Therefore, the survey initiated by FAIR should largely facilitate establishing a meaningful dialogue between legal education quality management bodies, law schools and employers to involve the latter to mechanisms of managing and ensuring the quality of legal education and its control to ensure the compliance of education content with labor market demands.

III. FORMAT OF A LABOR MARKET STUDY

1) **The first stage** consisted in conducting a desk research of current situation in the system of legal education through analyzing information about operations of civil society and self-governed organizations in legal and adjacent fields, nature of public discussion in order to reveal the problems and determine groups of experts for quantitative and qualitative studies;

2) **At the second stage**, a field study was conducted during which 416 persons were surveyed, among whom were employers in the legal field: leadership of legal departments of state bodies,

⁴ Regulation on the Ministry of Justice of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 2, 2014 No 228 [Electronic source]: /Access at: // <http://zakon1.rada.gov.ua/laws/show/228-2014-%D0%BF> – Title from a screen

owners, heads and managers of enterprises and organizations of a private sector in the field of legal practice;

3) **At the third stage**, verification of the expediency of recommendations received during field study took place. This required conducting in-depth interviews with representatives of CSOs and self-governed organizations in a legal and adjacent fields; representatives of specialized higher education institutions; heads of legal services and HR managers of enterprises - in total 41 persons, and focus group discussions in Odesa, Lviv, Kyiv and Kharkiv. Representatives of the Ministry of Justice and Ministry of Education and Science of Ukraine participated in developing relevant questionnaires and providing support to further conduct the surveys, including to the work of focus groups. The survey resulted in forming a list of major requirements to lawyers on the part of labor market representatives and outlining problems in the field of education and their solutions;

4) **At the fourth stage**, draft recommendations on bringing legal education in Ukraine closer to labor market demands were developed and their discussion by professional community and representatives of the Ministry of Education and Science and Ministry of Justice at a roundtable which took place on December 4, 2014 was organized.

IV. KEY CONCLUSIONS BASED ON SURVEY RESULTS

1) In the course of a study, major drawbacks of existing legal education system were identified:

- Graduates are facing problems with understanding professional values;
- Inability of graduates to apply the obtained theoretical knowledge in practice;
- Lack of practical skills and abilities.

General evaluation of legal education quality in Ukraine by employers and experts is "satisfactory" (theory - "good", practical skills and abilities - "bad").

It was determined that one half of employers does not give importance to what diploma (from which national higher education institution) the graduate has. While selecting employees successful companies develop and introduce their own systems of evaluating the level of training of young specialists.

2) The list of higher education institutions the graduates of which have certain advantage, according to another half of surveyed employers, includes classic universities that is a proof of the quality of trained young specialists. The group of leaders includes: National Law Academy named after Yaroslav Mudryi, Taras Shevchenko National University of Kyiv, National University "Kyiv-Mohyla Academy", Ivan Franko National University of Lviv, National University "Odesa Law Academy", Mechnikov National University of Odesa.

3) Experts agree on the opinion that **after implementing provisions of the new Law of Ukraine "On Higher Education" (first and foremost - regarding changing approaches to state order and relevant funding), an actual competition between higher education institutions for applicants will appear and their rating will change.**

There is an understanding of inevitability of drastic changes in the national system of training legal specialists in society (in professional environment, among employers, institutions, organizations and enterprises of different sectors and forms of ownership, educators, specialized media, etc.). Employers and experts have legitimate interest in participating in the work on determining the requirements to changing curricula of law schools, namely: the list of necessary professional competencies, legal disciplines and applied subjects which will develop practical skills and abilities

of students and help them master the system of professional values, the commitment to which lawyers in a rule of law state must profess in view of a special (self-governed) status of their profession.

4) With regard to the content of curricula for law school students under a Bachelor's program, 50% of surveyed employers mentioned the following subjects as "really necessary":

- **Mandatory major subjects:** Civil Law, Civil Proceedings, Constitutional Law and Human Rights, Commercial Law, Administrative Law, Criminal Law, Labor Law, Commercial Proceedings, Criminal Proceedings, Tax Law, Theory of Law, Theory of State, and Legal Psychology.
- **Mandatory subjects which develop practical skills and abilities:** Legal Analysis/Drafting Legal Opinions, Legal Writing, Professional Ethics, Basic Principles of Communications, Basic Principles of Self-Organization, Planning and Time Management, Software for Lawyers, Team Work, Legal Analysis/Writing and Rhetoric, Professional Ethics, and Foreign Languages.
- **Professional values** that must be learned and shared by young lawyers: respect for the rule of law, fairness, tolerance, professional independence, adherence to principles, loyalty to the client, and preventing the conflict of interests.

5) Based on results of focus group discussions and during a roundtable meeting, the outlined lists of mandatory major legal disciplines and subjects which develop practical skills and abilities were agreed to be sufficient to form a mandatory curriculum of a law school at the stage of getting an education and qualifications level of a Bachelor. According to experts, further expansion of a list of mandatory subjects may lead to overloading educational process.

6) Surveyed employers and experts share an opinion on the expediency of separating legal education into three areas of training, namely: "Science of Law", "International Law", "Law Enforcement". At the same time, during focus group and roundtable discussions, training students on "Law Enforcement" was proposed to be separated from legal education area. Herewith, participants emphasize a principal importance of eliminating a repressive trend in training staff for law enforcement system.

7) Among employers (60%) and experts (85%) there is an understanding of a need to develop and implement professional standards and detailed qualifications requirements under certain areas of professional activity, however, there is no knowledge about their content, functions and mechanisms of developing. Only some experts are familiar with content of recognized international and foreign national professional standards in legal field. Most of surveyed employers and experts believe that this is a task, first of all, for specialized national CSOs and self-governed organizations which should cooperate on this issue with the state and specialized international organizations and agree on their outcomes with participants of specialized activity following open and transparent procedures.

8) Survey of employers allowed identifying organizations which have an actual membership base and representative powers (National Association of Advocates of Ukraine, Association of Lawyers of Ukraine, Union of Advocates of Ukraine, Association of Advocates of Ukraine, Union (Association) of Lawyers of Ukraine, Notary Chamber of Ukraine). Two thirds of experts testified institutional interest of organizations, the leaders or members of which they are, in joining the process of development and practical implementation of professional standards of operations. At this stage, the Association of Advocates of Ukraine takes the initiative to develop professional standards.

9) A general standpoint of experts based on focus group discussions is as follows:

- Education standard must be based on professional standards in areas of legal activity;
- Education standard must be developed jointly by employers/participants of specialized activity and educators;
- Education standard is a mechanism of determining a list and content of subjects, their proportion, organization of practice, procedures of knowledge assessment, methods of forming practical skills and abilities. A major criterion of assessing key knowledge, skills, abilities and professional values is their compliance with demands of employers and professional communities.

Thus, an important step towards reform of law school curricula in Ukraine is developing and implementing professional standards in major areas of activity in legal field. Under the described conditions, survey of employers and experts does not give an opportunity to develop basic proposals regarding the content of a curriculum of professional education of lawyers based on their answers.

10) The processes of developing, revising, discussing and implementing professional and education standards must be of a public nature. Based on results of focus group discussions, tasks to be solved jointly by employers/professional communities and educators in the process of public discussion and education standard development were identified. These are - the content of specific disciplines, determining weight of each competence and/or practical skill, criteria of evaluating key knowledge, skills, abilities and professional values to assess law students in their mastering a Bachelor's program. Herewith, there must be respect of the autonomy of higher education institutions and specialization of law schools must be taken into account.

11) It was determined, that an objective obstacle towards interaction of educational institutions and employers/professional communities is the weakness of local professional organizations in legal field, actual lack of interaction with educators at the level of educational institution. Also, in the course of discussion it was repeatedly mentioned that the process of harmonizing education standards with demands of employers/professional communities will mean significant (and sometimes drastic) reorganization of academic load, need to master new knowledge by teachers, in terms of many disciplines - the need for in-depth development of scientific and practical problem issues (e.g., with regard to civil law; today, interest in specialists in civil law has come to a fore for employers).

12) There is a network of CSOs and self-governed professional organizations in legal field in Ukraine and CSOs in adjacent fields. However, no national CSO and self-governed organization in legal field has experience in developing and implementing professional standards, qualifications requirements and relevant certificate programs which are agreed on with participants of relevant markets or areas of activity. Currently, there are no CSO and self-governed organizations of educators in Ukraine who would deal with developing and implementing legal education standards in cooperation with participants of specialized markets. At the same time, in Kyiv and other big cities of Ukraine, there is a certain number of specialists who combine legal practice (mainly, advocate's activity) with teaching at law school, i.e. have practical experience and advanced theoretical knowledge, know the mechanism of operations of educational institutions, etc.

13) In the legal field of Ukraine there is currently no practice of efficient interaction between state bodies, educational institutions and employers/professional communities. Survey of experts revealed that developing and implementing legal and regulatory acts takes place without interaction with educators, specialized professional associations and employers.

14) Under present conditions, efficient and expeditious legal education reform in Ukraine is only possible through sharing experience, using outcomes of the EU, U.S. and other developed countries and taking into account interest and understanding of participants of specialized markets/areas of activity.

15) Benefits that target audiences received owing to their participation in this project at this stage and in the future may be classified as follows:

- Practical support in establishing a dialogue and interaction between employers/professional communities and educators;
- Revising and applying methodology of developing professional standards and qualifications requirements, first of all, through analyzing answers of employers and experts to questions in questionnaires during regular surveys;
- Support in establishing a responsible and transparent dialogue between employers/professional communities and educators - with specialized state bodies, first and foremost, the Ministry of Education and Science of Ukraine and Ministry of Justice of Ukraine - through mutual participation of their representatives in subject events;
- Support in learning and promoting experience of foreign countries in the issues of developing and implementing professional and education standards in legal field, civilized mechanisms of legal regulation, interaction with the state, etc.

V. KEY RECOMMENDATIONS BASED ON SURVEY RESULTS

Recommendations were developed for specialized central executive bodies (Ministry of Education and Science of Ukraine and Ministry of Justice of Ukraine), the Verkhovna Rada Committee on Education and Science, law schools, professional organizations which have membership and conduct their activity in the interests of their members and professional communities in general, international donor organizations interested in legal education reform in Ukraine and specialized media.

Based on discussion of survey results during the roundtable on December 4, 2014 in Kyiv with participation of representatives of the Ministry of Education and Science of Ukraine and Ministry of Justice of Ukraine, employers, professional communities, leading law schools and associations of law students, the following recommendations were agreed on:

1. Recommend the Ministry of Education and Science of Ukraine and Ministry of Justice of Ukraine to:

- 1.1. Support the process of further public discussion of the ways of modernizing legal education and role of lawyers under conditions of democratic rule of law state and with wide engagement of employers to develop a comprehensive legal education reform strategy and action plan to implement it efficiently;
- 1.2. Officially recognize that standardizing legal education and harmonizing it with modern labor market requirements are important legal education reform objectives which must be enshrined in legal education reform strategy and action plan to implement it;
- 1.3. Give adequate weight to results of a survey of opinion of employers and experts while developing a national legal education standard and revising the content of training programs for lawyers, in particular, in order to identify the list of mandatory subjects to master the scope of theoretical knowledge, develop practical abilities and skills and obtain knowledge

of professional values which a law school graduate must possess to conform to modern labor market demands;

1.4. In cooperation with professional organizations of lawyers, establish a continuous and systemic interaction in the work on forming a legal profession qualifications framework and based on it - develop a national legal education standard. Forms and mechanisms of such interaction must become a subject of public discussion.

2. Recommend the Ministry of Justice of Ukraine to initiate the process of forming a list of professional standards in major areas of activity of lawyers (judge, advocate, prosecutor, notary, legal counsel/legal adviser) by engaging professional organizations of lawyers.

3. Recommend the Ministry of Justice of Ukraine, Ministry of Education and Science of Ukraine, authorized bodies of self-governed professional organizations of lawyers to join the initiative of the Association of Advocates of Ukraine and take part in the work on developing national professional standards taking into account international commitments of the state, role of lawyers in a democratic society.

4. Recommend professional and donor organizations to support the efforts of the Government on modernizing legal education in Ukraine.

VI. EXPECTATIONS BASED ON SURVEY RESULTS

It is expected that obtained results of the conducted survey will promote cooperation of all stakeholders of legal education reform, influence the development of the process of forming public policy on ensuring legal education quality and its implementation tools and encourage reformatting curricula taking into account modern labor market demands.

It is also expected that survey results will facilitate consolidating the efforts of the Ministry of Education and Science of Ukraine and Ministry of Justice of Ukraine, employers and professional associations of lawyers, leading law schools and associations of law students in the process of forming basic documents to improve the quality of legal education, namely: developing **(1) Legal Profession Qualifications Framework**, **(2) Legal Profession Standards** for major legal professions, and **(3) National Legal Education Standard** to bring it closer to modern legal job market demands.